IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

WP(C).No. 17202 of 2004(W)

PETITIONER:

K.HARIDASAN, S/O. ANANDAN,
RAMATH KUNIYIL, P.O.VILLIAPALLY,
VATAKARA TALUK.

BY ADV. SRI. M.C. RATNAKARAN

RESPONDENTS:
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1. **THE COMMISSIONER OF INCOME TAX,**
   KOZHIKODE.

2. **THE INCOME TAX OFFICER, WARD 2(2),**
   KOZHIKODE.

BY ADV. SRI.P.K.R.MENON(SR.),SR.COUNSEL FOR IT
SRI.GEORGE K. GEORGE, SC FOR IT

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 17202/2004(W)

A P P E N D I X

PETITIONER'S EXHIBITS:

EXT. P1	**:**	**COPY OF THE SPECIAL VOLUNTARY RETIREMENT SCHEME OF CANARA BANK DATED 11.12.2000.**
EXT. P2	**:**	**COPY OF THE RETURN OF INCOME FILED BY THE PETITIONER AND ANNEXURE.**
EXT. P3	**:**	**COPY OF THE INTIMATION UNDER SECTION 143(1)(a) DATED SENT TO THE PETITIONER BY THE 2ND RESPONDENT.**
EXT. P4	**:**	**COPY OF THE REVISION PETITION UNDER SECTION 264(1) FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.**
EXT. P5	**:**	**COPY OF ARGUMENT NOTES DTD. 02.06.2003 FILED BEFORE 1ST RESPONDENT BY THE PETITIONER.**
EXT. P6	**:**	**COPY OF THE ORDER DATED 23.03.2004 PASSED BY THE 1ST RESPONDENT.**

// True Copy //

P.A. to Judge.

smp

KURIAN JOSEPH, J.

W.P.(C) NO. 17202 OF 2004

Dated this the 30th day of November, 2007.

J U D G M E N T

In the matter of interpretation of Section 89(1) of the Income Tax Act regarding spread over of the benefits in excess of Rs.5 lakhs, the issue is covered against the revenue and in favour of the petitioner by the decision reported in ***State Bank of Travancore vs. Central Board of Direct Taxes and another*** **([2006] 282 ITR 587(ker))**. Therefore, this writ petition is allowed quashing the impugned orders.

KURIAN JOSEPH, JUDGE.

smp